



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 18, 1998

Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Bldg.
125 E. 11th Street
Austin, Texas 78701-2483

OR98-3186

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120603.

The Texas Department of Transportation (the "department") received a request for information "regarding the off-site permit approved for Whiteco Outdoor Advertising." You state that you have provided the requestor with all of the requested information except for four e-mails that you believe are protected from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.107(1) of the Government Code protects information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107(1) excepts from public disclosure only "privileged information," that is, factual information or requests for legal advice communicated by the client to the attorney and legal advice or opinion rendered by the attorney to the client. ORD 574 at 5-7. Section 552.107(1) does not, however, protect purely factual information. *Id.* The four e-mails at issue are correspondence between a department employee and a department attorney. We conclude that the department may withhold portions of the e-mails from disclosure pursuant to section 552.107(1) of the Government Code. We have marked the e-mails accordingly. The department must release the remaining portions of the e-mails to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Karen Hattaway". The signature is written in a cursive style with a large, stylized "K" and "H".

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/rho

Ref: ID# 120603

Enclosures: Marked documents

cc: Mr. Brad Hogue
BCB, Inc.
P.O. Box 1135
Abilene, Texas 79604
(w/o enclosures)